

AMENDED IN ASSEMBLY JUNE 17, 2002

AMENDED IN SENATE APRIL 11, 2002

AMENDED IN SENATE APRIL 1, 2002

SENATE BILL

No. 1473

Introduced by Senator Machado

February 19, 2002

An act to amend Sections 25005.1, 25212.1, 25213, 25213.3, 25232.1, 25232.3, 25530, ~~and 25532~~ 25532, and 25608 of the Corporations Code, to amend Sections 17214, 17606, 17609.2, 17627, 22157, 22705, 22712, 50320, and 50325 of, and to amend and renumber Section 17005.3 of, the Financial Code, relating to the Commissioner of Corporations.

LEGISLATIVE COUNSEL'S DIGEST

SB 1473, as amended, Machado. Commissioner of Corporations.

Existing law requires any person who engages in business as a broker-dealer to be licensed and regulated by the Commissioner of Corporations. Existing law, the Escrow Law, requires any person who engages in business as an escrow agent to be licensed and regulated by the commissioner.

Existing law authorizes the commissioner to bring a civil action against a person who is in violation of a law or order regulating broker-dealers.

This bill would specify that in a case brought by the commissioner where a defendant is ordered to pay restitution, the order is deemed a money judgment and is fully enforceable by the victim as if it were a separate civil judgment.

Existing law establishes the Escrow Law Advisory Committee and provides for the appointment and terms of its 11 members.

The bill would delete the requirement that the members from the Escrow Agents' Fidelity Corporation and the Escrow Institute of California serve 2-year terms.

Existing law requires a finance lender to retain specified records for 2 years.

The bill would increase the time for retaining these records to 3 years.

The bill would make other changes with respect to the commissioner's authority to issue orders and enforce regulations relating to broker-dealers, escrow agents, finance lenders, and residential mortgage lenders.

Existing law defines entity conversion transactions. Existing law authorizes the commissioner to charge and collect specified fees from broker-dealers regarding applications to sell specified securities.

This bill would expand the definition of entity transactions to include a conversion that occurs entirely out of state. The bill would require broker-dealers to pay a specified application fee to the commissioner if the broker-dealer engages in entity conversion transactions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1.—~~

2 *SECTION 1. Section 25005.1 of the Corporations Code is*
3 *amended to read:*

4 25005.1. "Entity conversion transaction" means a
5 conversion pursuant to Section 15677.2, 15677.8, 16902, 16908,
6 17540.2, ~~or~~, 17540.8, *or a conversion that occurs entirely out of*
7 *state*, unless the interests in the entity resulting from the
8 conversion to be held by the equity holders of the entity being
9 converted as a result of the conversion are not securities. For
10 purposes of Sections 25103 and 25120 an entity conversion
11 transaction is not a change in the rights, preferences, privileges, or
12 restrictions of or on outstanding securities or an exchange of
13 securities by the issuer with its existing security holders
14 exclusively.

15 *SEC. 2. Section 25212.1 of the Corporations Code is amended*
16 *to read:*

1 25212.1. The commissioner may immediately revoke by
2 order the certificate of any broker-dealer if the broker-dealer fails
3 to comply with any currently effective order of the commissioner
4 which is necessary for the protection of any investor, unless the
5 broker-dealer secures a court order restraining the enforcement of
6 the commissioner's revocation order within 10 days of the date the
7 order is issued.

8 ~~SEC. 2.—~~

9 *SEC. 3.* Section 25213 of the Corporations Code is amended
10 to read:

11 25213. The commissioner may, after appropriate notice and
12 opportunity for hearing, by order censure, or suspend for a period
13 not exceeding 12 months, or deny or bar from any position of
14 employment, management or control of any broker-dealer or
15 investment adviser, any officer, director, partner, agent, employee
16 of, or person performing similar functions for, a broker-dealer, or
17 any other person, if the commissioner finds that the censure,
18 suspension, denial, or bar is in the public interest and that the
19 person has committed any act or omission enumerated in
20 subdivision (a), (e), (f), or (g) of Section 25212 or has been
21 convicted of, or pled nolo contendere to, any offense or been held
22 liable in any civil action specified in subdivision (b) of Section
23 25212, or is enjoined from any act, conduct or practice specified
24 in subdivision (c) of Section 25212 or is subject to any order
25 specified in subdivision (d) of Section 25212.

26 ~~SEC. 3.—~~

27 *SEC. 4.* Section 25213.3 of the Corporations Code is amended
28 to read:

29 25213.3. The commissioner shall, after appropriate notices
30 and opportunity for hearing, by order suspend, for a period not
31 exceeding 12 months, or bar from any position of employment,
32 management or control of any broker-dealer, any officer, director,
33 partner, agent, employee of, or person performing similar
34 functions for, a broker-dealer, or any other person, if the person has
35 been convicted of, or has pleaded nolo contendere to, a felony or
36 misdemeanor in violation of Section 25541 that was committed on
37 or after January 1, 1989.

38 ~~SEC. 4.—~~

39 *SEC. 5.* Section 25232.1 of the Corporations Code is amended
40 to read:

1 25232.1. The commissioner may, after appropriate notice and
2 opportunity for hearing, by order censure, or suspend for a period
3 not exceeding 12 months, or bar from any position of employment,
4 management or control of any investment adviser, broker-dealer
5 or commodity adviser, any officer, director, partner, employee of,
6 or person performing similar functions for, an investment adviser,
7 or any other person, if he or she finds that such censure, suspension
8 or bar is in the public interest and that such person has committed
9 any act or omission enumerated in subdivision (a), (e), (f), or (g)
10 of Section 25232 or has been convicted of any offense or held
11 liable in any civil action specified in subdivision (b) of Section
12 25232 or is enjoined from any act, conduct or practice specified in
13 subdivision (c) of Section 25232 or is subject to any order
14 specified in subdivision (d) of Section 25232.

15 ~~SEC. 5.—~~

16 SEC. 6. Section 25232.3 of the Corporations Code is amended
17 to read:

18 25232.3. The commissioner may immediately revoke by
19 order the certificate of any investment adviser if the investment
20 adviser fails to comply with any currently effective order of the
21 commissioner which is necessary for the protection of any
22 investor, unless the investment adviser secures a court order
23 restraining the enforcement of the commissioner's order within 10
24 days of the date the revocation order is issued.

25 ~~SEC. 6.—~~

26 SEC. 7. Section 25530 of the Corporations Code is amended
27 to read:

28 25530. (a) Whenever it appears to the commissioner that any
29 person has engaged or is about to engage in any act or practice
30 constituting a violation of any provision of this division or any rule
31 or order hereunder, the commissioner may in the commissioner's
32 discretion bring an action in the name of the people of the State of
33 California in the superior court to enjoin the acts or practices or to
34 enforce compliance with this law or any rule or order hereunder.
35 Upon a proper showing a permanent or preliminary injunction,
36 restraining order, or writ of mandate shall be granted and a
37 receiver, monitor, conservator, or other designated fiduciary or
38 officer of the court may be appointed for the defendant or the
39 defendant's assets, or any other ancillary relief may be granted as
40 appropriate.

A receiver, monitor, conservator, or other designated fiduciary or officer of the court appointed by the superior court pursuant to this section may, with the approval of the court, exercise any or all of the powers of the defendant's officers, directors, partners, trustees or persons who exercise similar powers and perform similar duties, including the filing of a petition for bankruptcy. No action at law or in equity may be maintained by any party against the commissioner, or a receiver, monitor, conservator, or other designated fiduciary or officer of the court, by reason of their exercising these powers or performing these duties pursuant to the order of, or with the approval of, the superior court.

(b) If the commissioner determines it is in the public interest, the commissioner may include in any action authorized by subdivision (a) a claim for ancillary relief, including but not limited to, a claim for restitution or disgorgement or damages on behalf of the persons injured by the act or practice constituting the subject matter of the action, and the court shall have jurisdiction to award additional relief.

(c) In any case in which a defendant is ordered by the court to ~~pay restitution to a victim, the order to pay restitution is deemed a money judgment, and shall be fully enforceable by a victim as~~ *pay restitution to a victim, the court may in its order require the payment as a money judgement, which shall be enforceable by a victim as if the restitution order were a separate civil judgment, and enforceable in the same manner as is provided for the enforcement of any other money judgment.*

~~SEC. 7.—~~

SEC. 8. Section 25532 of the Corporations Code is amended to read:

25532. (a) If, in the opinion of the commissioner, (1) the sale of a security is subject to qualification under this law and it is being or has been offered or sold without first being qualified, the commissioner may order the issuer or offeror of the security to desist and refrain from the further offer or sale of the security until qualification has been made under this law or (2) the sale of a security is subject to the requirements of Section 25100.1, 25101.1, or 25102.1 and the security is being or has been offered or sold without first meeting the requirements of those sections, the commissioner may order the issuer or offeror of that security

1 to desist and refrain from the further offer or sale of the security
2 until those requirements have been met.

3 (b) If, in the opinion of the commissioner, a person has been or
4 is acting as a broker-dealer or investment adviser, or has been or
5 is engaging in broker-dealer or investment adviser activities, in
6 violation of Section 25210, 25230 or 25230.1, the commissioner
7 may order that person to desist and refrain from the activity until
8 the person has been appropriately licensed or the required filing
9 has been made under this law.

10 (c) If, in the opinion of the commissioner, a person has violated
11 or is violating Section 25401, the commissioner may order that
12 person to desist and refrain from the violation.

13 (d) If, after an order has been made under subdivision (a), (b),
14 or (c), a request for hearing is filed in writing within one year of
15 the date of service of the order by the person to whom the order was
16 directed, a hearing shall be held in accordance with provisions of
17 the Administrative Procedure Act, Chapter 5 (commencing with
18 Section 11500) of Part 1 of Division 3 of Title 2 of the Government
19 Code, and the commissioner shall have all of the powers granted
20 under that chapter. Unless the hearing is commenced within 15
21 business days after the request is filed (or the person affected
22 consents to a later date), the order is rescinded.

23 If that person fails to file a written request for a hearing within
24 one year from the date of service of the order, the order shall be
25 deemed a final order of the commissioner and is not subject to
26 review by any court or agency, notwithstanding Section 25609.

27 *SEC. 9. Section 25608 of the Corporations Code is amended*
28 *to read:*

29 25608. (a) The commissioner shall charge and collect the
30 fees fixed in this section and Section 25608.1. All fees charged and
31 collected under this section and Section 25608.1 shall be
32 transmitted to the Treasurer at least weekly, accompanied by a
33 detailed statement thereof and shall be credited to the State
34 Corporations Fund.

35 (b) The fee for filing an application for a negotiating permit
36 under subdivision (c) of Section 25102 is fifty dollars (\$50).

37 (c) The fee for filing a notice pursuant to paragraph (5) of
38 subdivision (h) of Section 25102 and the fee for filing a notice
39 pursuant to paragraph (4) of subdivision (f) of Section 25102, in
40 addition to the fee prescribed in those paragraphs, if applicable,

shall be determined based on the value of the securities proposed to be sold in the transaction for which the notice is filed and in accordance with subdivision (g), and shall be as follows:

Value of Securities	
Proposed to be Sold	Filing Fee
\$25,000 or less	\$ 25
\$25,001 to \$100,000	\$ 35
\$100,001 to \$500,000	\$ 50
\$500,001 to \$1,000,000	\$150
Over \$1,000,000	\$300

(d) The fee for filing an application for designation of an issuer pursuant to subdivision (k) of Section 25100 is fifty dollars (\$50).

(e) The fee for filing an application for qualification of the sale of securities by notification under Section 25112 or by permit under paragraph (1) of subdivision (b) of Section 25113 (except applications for qualification by permit of the sale of any guarantee of any security, the fees for which applications are fixed in subdivision (k)) is two hundred dollars (\$200) plus one-fifth of 1 percent of the aggregate value of the securities sought to be sold in this state up to a maximum aggregate fee of two thousand five hundred dollars (\$2,500).

The fee for filing a small company application for qualification of the sale of securities by permit under paragraph (2) of subdivision (b) of Section 25113 is two thousand five hundred dollars (\$2,500). In the case where the costs of processing a small company application exceed the filing fee, an additional fee shall be charged, not to exceed one thousand dollars (\$1,000), over and above the filing fee based on the costs of the salary or other compensation paid to persons processing the application plus overhead costs reasonably incurred in the performance of the work. In determining the costs, the commissioner may use the estimated average hourly cost for all persons processing applications for the fiscal year.

(f) The fee for filing an application for qualification of the sale of securities by coordination under Section 25111 or a notice of intention to sell under subdivision (t) of Section 25100 is two hundred dollars (\$200) plus one-fifth of 1 percent of the aggregate value of the securities sought to be sold in this state up to a

1 maximum aggregate fee of two thousand five hundred dollars
2 (\$2,500).

3 (g) For the purpose of determining the fees fixed in
4 subdivisions (e) and (f):

5 (1) The value of the securities shall be the price at which the
6 company proposes to sell the securities, or the value, as alleged in
7 the application, or the actual value, as determined by the
8 commissioner, of the consideration (if other than money) to be
9 received in exchange therefor, or of the securities when sold,
10 whichever is greater.

11 (2) Interim or voting trust certificates shall have a value equal
12 to the aggregate value of the securities to be represented by the
13 interim or voting trust certificates.

14 (3) The value of a warrant or right to purchase or subscribe to
15 another security of the same or another issuer shall be an amount
16 equal to the consideration to be paid for that warrant or right plus
17 an amount equal to the consideration to be paid upon purchase of
18 the additional securities, provided that if the latter amount is not
19 determinable at the time of qualification, that amount shall then be
20 the value of the additional securities as determined by the
21 commissioner.

22 (4) In the case of a share dividend where the shareholders are
23 given an option to accept either cash or additional shares of
24 common stock, the value of the securities to be sold shall be the
25 maximum amount of cash that would be payable in the event that
26 all shareholders elected to accept cash.

27 (h) The fee for filing an application for qualification of the sale
28 of securities by permit under Section 25121 is:

29 (1) Two hundred dollars (\$200) in connection with any change
30 (including any stock split or reverse stock split or stock dividend,
31 except a stock dividend where the shareholders are given an option
32 to accept either cash or additional shares of common stock) in the
33 rights, preferences, privileges, or restrictions of or on outstanding
34 securities.

35 (2) Two hundred dollars (\$200) plus one-fifth of 1 percent of
36 the value, as alleged in the application, or the actual value, as
37 determined by the commissioner, of the consideration to be
38 received in exchange therefor, up to a maximum aggregate fee of
39 two thousand five hundred dollars (\$2,500), in any exchange of
40 securities by the issuer with its existing security holders

1 exclusively, or in any exchange in connection with any merger or
2 consolidation or purchase of corporate assets in consideration of
3 the issuance of securities, *or any entity conversion transaction*.

4 (i) The fee for filing an application for qualification of the sale
5 of securities by notification under Section 25131 shall be one
6 hundred dollars (\$100).

7 (j) The fee for an application for the removal of any condition
8 under Section 25141 is fifty dollars (\$50).

9 (k) The fee for filing any application for a permit to execute or
10 issue any guarantee of any security is fifty dollars (\$50).

11 (l) The fee for acting as escrowholder for securities under
12 Section 25149 is fifty dollars (\$50). In addition, a fee of two
13 dollars and fifty cents (\$2.50) shall be paid for the deposit with the
14 commissioner of each new certificate or other document resulting
15 from a transfer in escrow.

16 (m) The fee for filing an application for an order (1) consenting
17 to the transfer in escrow of securities or (2) consenting to the
18 transfer of securities subject to any condition imposed by the
19 commissioner requiring the commissioner's consent to the
20 transfer is twenty dollars (\$20) for each transfer.

21 (n) The filing fee for an amendment to an application filed after
22 the effective date of the qualification of the sale of securities is fifty
23 dollars (\$50) plus any additional fee that would have been required
24 to be paid with the original application for qualification of the sale
25 of securities under this section if the matters set forth in the
26 amendment had been included in the original application.

27 (o) (1) The fee for filing an application for a broker-dealer
28 certificate under Section 25211 is three hundred dollars (\$300).

29 (2) Each broker-dealer shall pay to the commissioner its pro
30 rata share of all costs and expenses, reasonably incurred in the
31 administration of the broker-dealer program under this division, as
32 estimated by the commissioner for the ensuing year and any deficit
33 actually incurred or anticipated in the administration of the
34 program in the year in which the assessment is made. The pro rata
35 share shall be the proportion that the broker-dealer and the number
36 of its agents in this state bears to the aggregate number of
37 broker-dealers and agents in this state as shown by records
38 maintained by or on behalf of the commissioner. The pro rata share
39 may include the costs of any examinations, audit, or investigation
40 provided for in subdivision (r).

1 (3) Every broker-dealer who has secured from the
2 commissioner a certificate shall, in order to keep the certificate in
3 effect for an additional period, pay a minimum assessment of
4 seventy-five dollars (\$75) on or before the 31st of December in
5 each year.

6 (4) The commissioner may assess and levy against each
7 broker-dealer any additional amount above the minimum
8 assessment amount of seventy-five dollars (\$75) that is reasonable
9 and necessary to support the broker-dealer program under this
10 division. If an additional amount is assessed, the commissioner
11 shall notify each broker-dealer by mail of any additional amount
12 assessed and levied against it on or before the 30th day of May in
13 each year, and that amount shall be paid within 20 days thereafter.
14 If payment is not made within 20 days, the commissioner shall
15 assess and collect a penalty in addition to the assessment of 1
16 percent of the assessment for each month or part of a month that
17 the payment is delayed or withheld.

18 (5) If a broker-dealer fails to pay any assessment on or before
19 the 30th day of the month following the day upon which payment
20 is due, the commissioner may by order summarily suspend or
21 revoke the certificate issued to the broker-dealer. If, after that order
22 is made, a request for hearing is filed in writing and a hearing is
23 not held within 60 days thereafter, the order is deemed rescinded
24 as of its effective date. During any period when its certificate is
25 revoked or suspended, a broker-dealer shall not conduct business
26 pursuant to this division except as may be permitted by order of the
27 commissioner; provided, however, that the revocation,
28 suspension, or surrender of a certificate shall not affect the powers
29 of the commissioner as provided under this division.

30 (6) In determining the amount assessed, the commissioner shall
31 consider all appropriations from the State Corporations Fund for
32 the support of the broker-dealer program under this division and
33 all reimbursements applicable to the administration of the
34 broker-dealer program under this division.

35 (p) The commissioner shall charge a fee of twenty-five dollars
36 (\$25) for the filing of a notice or report required by rule adopted
37 pursuant to subdivision (b) of Section 25210 or subdivision (b) of
38 Section 25230.

39 (q) (1) Except as provided for in paragraph (2), the fee for
40 filing an application for an investment adviser under Section

25231 is one hundred twenty-five dollars (\$125), and payment of this amount shall keep the certificate, if granted, in effect during the calendar year during which it is granted. Every investment adviser who has secured from the commissioner a certificate shall, in order to keep the certificate in effect for an additional period, pay a renewal fee of one hundred twenty-five dollars (\$125) on or before the 31st day of December.

(2) Paragraph (1) shall not apply to a broker-dealer licensed under Section 25210.

(r) (1) Except as provided for in paragraph (2), the fee for any routine or nonroutine regulatory examination, audit, or investigation is the amount of the salary or other compensation paid to the persons making the examination, audit, or investigation plus the amount of expenses including overhead reasonably incurred in the performance of the work. In determining the costs associated with an examination, audit, or investigation, the commissioner may use the estimated average hourly cost for all persons performing examinations, audits, or investigations for the fiscal year.

(2) An investment adviser licensed under Section 25230 pursuant to the Investment Adviser Registration Depository shall not be subject to paragraph (1) only in regard to the fee for a routine regulatory examination of its investment advisory services for which it is licensed under Section 25230.

(s) The fee for any hearing held by the commissioner pursuant to Section 25142 shall be the sum determined by the commissioner to cover the actual expense of noticing and holding the hearing.

(t) The commissioner may fix by rule a reasonable charge for any publications issued under his or her authority. The charges shall not apply to reports of the commissioner in the ordinary course of distribution.

(u) The fee for filing an offer under subdivision (b) of Section 25507 shall be the amount of filing fee payable under subdivision (e), (f), (h), or (i) of this section if an application had been filed to qualify the transaction in which the securities upon which the offer is to be made were sold in violation of the qualification provisions of this law.

(v) The fee for filing an application for exemption pursuant to subdivision (l) of Section 25100 is two hundred fifty dollars (\$250).

(w) The commissioner may by rule require payment of a fee for filing a notice or report required by a rule adopted pursuant to Section 25105. The fee required in connection with a transaction as defined by that rule shall not exceed the fees specified in subdivision (c) based on the value of the securities sold, but the commissioner may permit a single notice for more than one transaction.

(x) The fee for filing the first notice of transaction under subdivision (n) of Section 25102 is six hundred dollars (\$600).

(y) The fee for filing a notice of transaction under subdivision (o) of Section 25102 shall be the fee for filing an application for qualification of the sale of securities by permit under paragraph (1) of subdivision (b) of Section 25113 as set forth in subdivision (e) of this section.

(z) The fee for filing a notice of transaction under subdivision (h) of Section 25103 shall be six hundred dollars (\$600).

~~SEC. 8.—~~

SEC. 10. Section 17005.3 of the Financial Code, as amended by Section 3 of Chapter 441 of the Statutes of 1999, is amended and renumbered to read:

17005.4. “Person subject to this division” means any person undertaking the performance of escrow agent services. Unless specifically exempted, as in Section 17006, however, this definition shall not be used to exclude anyone.

~~SEC. 9.—~~

SEC. 11. Section 17214 of the Financial Code is amended to read:

17214. (a) There is established in the Department of Corporations an Escrow Law Advisory Committee consisting of 11 members. The members shall consist of the commissioner or his or her designee; the chairman of the board and the immediate past chairman of the board for the Escrow Agents’ Fidelity Corporation; the current chairman of the board and the immediate past chairman of the board for the Escrow Institute of California; a person selected by the commissioner to represent a different type of business ownership under this division; a person selected by the commissioner to represent a different type of business specialization; a person selected by the commissioner to represent small businesses operating pursuant to this division; a person selected by the commissioner to represent medium-sized

businesses operating pursuant to this division; an attorney at law experienced in escrow matters selected by the commissioner; and a certified public accountant experienced in the escrow business selected by the commissioner.

Except for the members from the Escrow Agents' Fidelity Corporation and the Escrow Institute of California, the members appointed by the commissioner shall serve for a term of two years.

The committee shall meet at least quarterly. The commissioner or his or her designee shall chair the committee. All members shall serve without compensation or reimbursement for expenses.

Where the chairman of the board or the immediate past chairman of the board of the Escrow Agents' Fidelity Corporation is the same person, or is unable to serve on the advisory committee, then the commissioner after consultation with the board of directors of the Escrow Agents' Fidelity Corporation, shall choose a member of the board of directors to serve on the committee. Where the president or past president of the Escrow Institute of California is the same person, or is unable to serve on the advisory committee, then the commissioner after consultation with the board of directors of the Escrow Institute of California, shall choose a member of the board of directors to serve on the committee.

(b) The purpose of the committee is to assist the commissioner in the implementation of the commissioner's duties under this chapter.

~~SEC. 10.—~~

SEC. 12. Section 17606 of the Financial Code is amended to read:

17606. The commissioner may immediately revoke by order the escrow agent's license if the licensee fails to comply with any order, unless the escrow agent secures a court order restraining the enforcement of the commissioner's revocation order.

~~SEC. 11.—~~

SEC. 13. Section 17609.2 of the Financial Code is amended to read:

17609.2. Whenever the commissioner deems it necessary for the general welfare of the public, the commissioner has continuous authority to exercise the powers set forth in this division whether or not an application for a license has been filed with the

1 commissioner, any license has been issued, or if issued, has been
2 surrendered, suspended, or revoked.

3 ~~SEC. 12.—~~

4 *SEC. 14.* Section 17627 of the Financial Code is amended to
5 read:

6 17627. The commissioner may issue subpoenas and require
7 the attendance of parties for examination under this article as
8 provided for in this chapter.

9 ~~SEC. 13.—~~

10 *SEC. 15.* Section 22157 of the Financial Code is amended to
11 read:

12 22157. Licensees shall preserve their books, accounts, and
13 records, including cards used in the card system, if any, for at least
14 three years after making the final entry on any loan recorded
15 therein.

16 ~~SEC. 14.—~~

17 *SEC. 16.* Section 22705 of the Financial Code is amended to
18 read:

19 22705. Whenever the commissioner deems it necessary for
20 the general welfare of the public, he or she has continuous
21 authority to exercise the powers set forth in this division whether
22 or not an application for a license has been filed with the
23 commissioner, any license has been issued, or if issued, has been
24 surrendered, suspended, or revoked.

25 ~~SEC. 15.—~~

26 *SEC. 17.* Section 22712 of the Financial Code is amended to
27 read:

28 22712. Whenever, in the opinion of the commissioner, any
29 person is engaged in business as a broker or finance lender, as
30 defined in this division, without a license from the commissioner,
31 or any licensee is violating any provision of this division, the
32 commissioner may order that person or licensee to desist and to
33 refrain from engaging in the business or further violating this
34 division. If, within 30 days after the order is served, a written
35 request for a hearing is filed and no hearing is held within 30 days
36 thereafter, the order is rescinded.

37 ~~SEC. 16.—~~

38 *SEC. 18.* Section 50320 of the Financial Code is amended to
39 read:

1 50320. Whenever, in the opinion of the commissioner, a
2 person is engaged, either actually or through subterfuge, in the
3 business of making residential mortgage loans or servicing
4 residential mortgage loans without a license from the
5 commissioner, the commissioner may order that person to desist
6 and refrain. If, within 30 days after an order is served, a request for
7 a hearing is filed in writing and the hearing is not held within 60
8 days of the filing, the order is rescinded. This section does not
9 apply to persons exempted under subdivision (g) of Section 50003.

10 ~~SEC. 17.~~

11 *SEC. 19.* Section 50325 of the Financial Code is amended to
12 read:

13 50325. The commissioner may immediately revoke the
14 residential mortgage lender's or residential mortgage loan
15 servicer's license if the licensee fails to comply with any order
16 issued under Section 50318, 50319, 50321, 50322 or 50503. The
17 commissioner shall not revoke the license if, within 10 days from
18 the effective date of the revocation order, the licensee secures a
19 court order restraining the enforcement of the commissioner's
20 revocation order.

